

REMARKS

The non-final Office Action was issued on pending claims 9 and 12-18. In the Office Action, claims 9 and 12-18 stand rejected. In this Response, no claims have been amended, cancelled or added. Thus, claims 9 and 12-18 are pending in the application.

CLAIM REJECTIONS – 35 U.S.C. §§ 102, 103

In Office Action paragraph 1, claims 9, 12, 14 and 16-18 were rejected under 35 U.S.C. § 102(e) as being anticipated by Fung et al. (US 6,609,939). In Office Action paragraph 3, claims 13 and 15 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Fung et al. in view of Shaffer et al. (US 6,240,170). Applicant respectfully disagrees.

The present application claims foreign priority based on German Patent Application No. 197 41 475.3 filed September 19, 1997. The signed declaration claims foreign priority based on the German '475 application. The present application was filed in the U.S. Patent Office under 35 U.S.C. § 371 from International Application No. PCT/DE98/02624. A Notification of Acceptance of Application Under 35 U.S.C. § 371 mailed by the Patent Office on May 11, 2000 acknowledged receipt of the priority document. Enclosed is an English language translation of the German priority application no. 197 41 475.3 with a statement that the translation is accurate. Accordingly, Applicant is entitled to rely on the September 19, 1997 foreign priority filing date in Germany under 37 C.F.R. § 1.55.

Fung et al. was filed in U.S. Patent Office on November 10, 1997. Applicant's German priority date of September 19, 1997 predates the § 102(e) prior art date of November 10, 1997 for Fung et al. Accordingly, Fung et al. is not prior art for the present invention.

Thus, Applicant respectfully submits that the § 102 and § 103 rejections are improper and should be withdrawn.

CONCLUSION

For the foregoing reasons, Applicant submits that the patent application is in condition for allowance and requests a Notice of Allowance be issued.

Respectfully submitted,

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Dated: November 20, 2003